

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: John Butler	Team: Squad #5	CCRB Case #: 201505414	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 06/27/2015 11:30 PM	Location of Incident: § 87(2)(b) and § 87(2)(b)	Precinct: 47	18 Mo. SOL 12/27/2016	EO SOL 12/27/2016	
Date/Time CV Reported Wed, 07/01/2015 9:42 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 07/01/2015 9:42 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)		§ 87(2)(b)
§ 87(2)(b)		§ 87(2)(b)
§ 87(2)(b)		§ 87(2)(b)
§ 87(2)(b)		§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Robert Bosland	27695	926590	047 PCT
2. LT Michael Raso	00000	933235	047 PCT
3. POM Joseph Novak	10056	950959	047 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Stephen Api	1314	942958	047 PCT
2. POF Teresa Busweiler	26473	948312	047 PCT
3. POM Michael Summa	19628	947525	047 PCT
4. POM John Mcloughlin	26642	941073	047 PCT
5. POM Brian Hanlon	05831	950459	047 PCT
6. Officers			047 PCT

Officer(s)	Allegation	Investigator Recommendation
A.LT Michael Raso	Abuse: Lt. Michael Raso authorized the seizure of § 87(2)(b)'s property.	§ 87(2)(b)
B.LT Michael Raso	Abuse: Lt. Michael Raso authorized the entry of § 87(2)(b) and § 87(2)(b) in the Bronx.	§ 87(2)(b)
C.POM Robert Bosland	Force: PO Robert Bosland used physical force against § 87(2)(b)	§ 87(2)(b)
D.POM Robert Bosland	Abuse: PO Robert Bosland entered § 87(2)(b) in the Bronx.	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
§ 87(2)(g), § 87(4-b)		

### Case Summary

§ 87(2)(b) filed this complaint with the CCRB via phone on July 1, 2015, on behalf of herself, her brothers; § 87(2)(b) and § 87(2)(b) her daughter's father; § 87(2)(b) and her next door neighbor; § 87(2)(b) videotaped the incident on his cellphone and texted this video to § 87(2)(b) who in turn texted the video to § 87(2)(b) and § 87(2)(b) and § 87(2)(b) provided the video to the CCRB via email.

On June 27, 2015, at approximately 11:30 p.m., § 87(2)(b) hosted a party involving approximately 20-50 civilians in the shared backyard of § 87(2)(b) and § 87(2)(b) in the Bronx. Lt. Michael Raso of the 47<sup>th</sup> Precinct received a noise complaint about the party, and he instructed Sgt. Stephen Api of the 47<sup>th</sup> Precinct to respond to the scene and to seize the civilians' audio speakers (**Allegation A**). Lt. Raso, Sgt. Api, PO Robert Bosland, PO Joseph Novak, PO Brian Hanlon, PO Teresa Busweiler, PO § 87(2)(b) Summa, PO John McLoughlin, and approximately five to six additional officers from the 47<sup>th</sup> Precinct arrived at the incident location. All of the officers entered the shared backyard of § 87(2)(b) and § 87(2)(b) by walking down the shared driveway between the houses (**Allegation B**). PO Bosland then entered § 87(2)(b) through the back door by pushing § 87(2)(b) into the house, and he did so in order to carry out Lt. Raso's order to seize the speakers, which were inside of the house (**Allegation C-D**). PO Bosland issued a summons to § 87(2)(b) for unreasonable noise, and the officers left the scene with the speakers (Board Review 01-07).

This case was originally assigned to Inv. Patrick Browne on July 2, 2015, and it was reassigned to Inv. John Butler on July 8, 2015.

### Mediation, Civil and Criminal Histories

This case was unsuitable for mediation due to a concurrent IAB investigation into the officers' seizure of the audio speakers. As of July 13, 2015, § 87(2)(b) and § 87(2)(b) had not filed a notice of claim with the City of New York (Board Review 11). As of September 8, 2015, § 87(2)(b) and § 87(2)(b) had not filed a notice of claim with the City of New York. § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

### Civilian and Officer CCRB Histories

This is the first CCRB complaint for all of the victims in this case (Board Review 13-16).

Lt. Raso has been a member of the NYPD for 12 years and has been the subject of 17 complaints involving 55 allegations. Six of Lt. Raso's prior allegations were substantiated, including allegations of gun pointed, a stop of a person, two vehicle stops, a home entry, and property damage. These substantiated allegations resulted in command discipline, charges with instructions, charges with no disciplinary action, and formalized training (See officer history).

PO Bosland has been a member of the NYPD for 14 years and has been the subject of three prior complaints involving five allegations, none of which were substantiated. § 87(2)(g)

§ 87(2)(g)

### Potential Issues

During his CCRB interview on August 7, 2015, Lt. Raso attempted to audio record the interview on his phone. He was instructed to stop the recording and to delete the audio from his phone. Lt. Raso agreed to do so.

### Findings and Recommendations

#### Allegations not pleaded

**Abuse of Authority:** An entry allegation was not pleaded against PO Novak because he entered the house after PO Bosland initiated the entry based on a reasonable concern for PO Bosland's safety.

**Allegation A – Abuse of Authority: Lt. Michael Raso authorized the seizure of § 87(2)(b)'s property.**

**Allegation B – Abuse of Authority: Lt. Michael Raso authorized the entry of § 87(2)(b) and § 87(2)(b) in the Bronx.**

**Allegation C – Force: PO Robert Bosland used force against § 87(2)(b)**

**Allegation D – Abuse of Authority: PO Robert Bosland entered § 87(2)(b) in the Bronx.**

It is undisputed that Lt. Raso authorized the seizure of § 87(2)(b)'s audio speakers. It is undisputed the officers entered the shared backyard of § 87(2)(b) and § 87(2)(b) based on Lt. Raso's instructions to seize the audio speakers. It is undisputed that PO Bosland entered § 87(2)(b) in order to seize the audio speakers by pushing § 87(2)(b) into the house (Board Review 01-10).

According to the civilians, § 87(2)(b) hosted a party in the shared backyard between § 87(2)(b) and § 87(2)(b) on the date of the incident (Board Review 01-05). The residence at § 87(2)(b) is a private, three-story home owned by § 87(2)(b)'s grandfather. § 87(2)(b) lives on the § 87(2)(b) floor of the house; § 87(2)(b) and § 87(2)(b) live on the § 87(2)(b) floor; and § 87(2)(b)'s cousin, § 87(2)(b) lives on the § 87(2)(b) floor. Neither § 87(2)(b) nor § 87(2)(b)'s grandfather was present during the incident. The residence at § 87(2)(b) is a private home owned by § 87(2)(b) and § 87(2)(b)'s husband, § 87(2)(b) live at this residence. The party began at approximately 6:00 p.m., and there were approximately 20 to 50 guests present. § 87(2)(b) used his audio speakers to play music in the backyard during the party.

Prior to the officers' arrival, Lt. Raso received a phone call from Ins. Ruel Stephenson of the 47<sup>th</sup> Precinct, and Ins. Stephenson informed him that a civilian, identified only as § 87(2)(b) called his home phone to file a noise complaint about § 87(2)(b)'s party (Board Review 07). Ins. Stephenson instructed Lt. Raso to investigate the incident but did not tell Lt. Raso specifically how to address the noise complaint. Lt. Raso stated that § 87(2)(b) was a location with many prior noise complaints, and he estimated that officers responded to the location to address noise complaints on at least five prior occasions over the past few months. Sgt. Api and PO Novak were consistent with Lt. Raso in describing the chronic nature of the location, but PO Bosland did not have any knowledge of this (Board Review 08-10). According to § 87(2)(b) officers responded to § 87(2)(b) to address a noise complaint on only one prior occasion over the six months prior to the incident, and the event summary for § 87(2)(b) over this time period confirmed § 87(2)(b)'s assertion (Board Review 29-30).

Following his conversation with Ins. Stephenson, Lt. Raso called Sgt. Api on his cell phone and told Sgt. Api to prepare his officers to respond to § 87(2)(b). Lt. Raso told Sgt. Api to seize the audio speakers if the civilians responsible for the noise were the same as the civilians who were involved in the prior chronic noise complaints.

Lt. Raso and his unidentified partners then responded to § 87(2)(b) home at § 87(2)(b) in the Bronx, which is two houses down from § 87(2)(b) (Board Review 07). He heard music playing from § 87(2)(b) as soon as he arrived. Lt. Raso spoke with § 87(2)(b) who complained about the loud music, and Lt. Raso determined that the music was unreasonable due to the fact that § 87(2)(b) house vibrated from the sound. At this time, Lt. Raso called Sgt. Api again and told him to respond to § 87(2)(b) and seize the sound reproduction equipment if the civilians responsible for the noise were the same individuals involved in the prior noise complaints. Lt. Raso decided to seize the speakers due to the alleged chronic nature of the noise complaints, and he wanted Sgt. Api to seize the speakers even if the volume was turned off or turned down for the same reason. Sgt. Api confirmed that Lt. Raso instructed him to seize the speakers upon arriving on the scene, and PO Bosland and PO Novak did not know what actions would be taken upon their arrival (Board Review 08-10).

According to the civilians and officers, Sgt. Api, PO Bosland, PO Novak, PO Hanlon, PO Summa, PO McLoughlin, PO Bussweiler and approximately twelve other uniformed police officers arrived at the incident location in marked police vehicles upon Lt. Raso's instruction. The officers stated that they heard loud music as soon as they turned onto Gunther Avenue, and the volume of the music increased when the officers arrived on the scene. The civilians disputed this, saying that the music either could not be heard from the street or could only be heard at a very low and reasonable volume. All of the civilians were consistent in that they turned the volume of the music to a low, almost non-existent, level as soon as the officers arrived at the location, and this was confirmed by Sgt. Api and PO Novak. PO Bosland was the only officer who disputed this.

All parties were consistent in that the officers entered the backyard by walking down the shared driveway between the houses shortly after their arrival. Lt. Raso stated that he did not arrive on the scene until after the officers entered the backyard, and Sgt. Api and PO Bosland confirmed this. PO Novak stated that Lt. Raso was on the scene prior to the officers' entry into the backyard. None of the civilians specified whether Lt. Raso arrived before or after the officers entered the backyard. Sgt. Api and PO Bosland stated that the officers entered the backyard to investigate the unreasonable noise and speak to the owner of the house.

According to the civilians, Sgt. Api did not inform them that the officers intended to seize the speakers, and he instructed § 87(2)(b) to pack up the speakers and audio equipment (Board Review 01-05). § 87(2)(b) and § 87(2)(b) packed up the speakers and brought them inside the back door of § 87(2)(b). The speakers were completely off at this time. § 87(2)(b) and § 87(2)(b) remained inside of the house while § 87(2)(b) returned outside and stood with § 87(2)(b) and § 87(2)(b) observed PO Novak and PO Bosland walk toward the back door of § 87(2)(b) at this time. § 87(2)(b) stood in front of the doorway and told PO Bosland that he could not enter the house. § 87(2)(b) held onto the doorframe as PO Bosland wrapped his arms around § 87(2)(b)'s waist and upper back, and PO Bosland pushed § 87(2)(b) into the house to enter the home. PO Novak entered the house shortly after PO Bosland, and the officers removed the speakers from the house. § 87(2)(b) filmed this interaction on his cell phone, and the video footage was consistent with the civilians' account of the incident (Board Review 06).

Sgt. Api stated that he immediately told § 87(2)(b) of the officers' intention to seize the speakers and that he only told § 87(2)(b) to pack up his other D.J. equipment (Board Review 07-10). Sgt. Api issued these commands based on Lt. Raso's instructions that the officers should seize the speakers upon their arrival. Sgt. Api stated that Lt. Raso arrived on the scene as § 87(2)(b) was packing up his equipment and prior to PO Bosland's entry into the house. PO Bosland and PO Novak were consistent in that Lt. Raso was on the scene at this time, but Lt. Raso claimed that he did not arrive on the scene until after the speakers were removed from the house. According to Sgt. Api, Lt. Raso instructed PO Bosland to seize the speakers, but PO Bosland stated that Sgt. Api told him to seize the speakers. All of the officers were consistent in that neither Sgt. Api nor Lt. Raso instructed PO Bosland to enter the house, and Sgt. Api and Lt. Raso stated that they did not know that the speakers were taken into the house when the command to seize the speakers was issued to PO Bosland. Sgt. Api saw § 87(2)(b) carry the speakers toward the house, but he did not see him place the speakers inside the house. Photographs of the incident location show that the backdoor of the house was not visible from where Sgt. Api and Lt. Raso stood in the backyard (Board Review 20-27).

PO Bosland was consistent with the civilians in describing the manner in which he entered the home by pushing § 87(2)(b). He stated that he entered the house to seize the speakers and had no other reason for doing so. None of the other officers saw PO Bosland enter the house. PO Novak stated that he saw PO Bosland walk toward the house and then heard yelling shortly thereafter at which time he entered the house due to concerns that a fight was ongoing inside. PO Bosland issued a summons to § 87(2)(b) and the officers left the scene with the speakers.

According to Patrol Guide Procedure 214-23, officers should first attempt to correct noise complaints by warning the violator in question (Board Review 17). Sound reproduction devices should only be seized after these warnings fail to correct the condition. The decision to forcibly enter into private premises to correct the noise complaint will only be made by a precinct commander and will serve as a last resort after requests to stop the noise have been ignored. In addition, an officer must use minimum necessary force as per Patrol Guide Procedure 203-11 (Board Review 28).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

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§ 87(4-b), § 87(2)(g)

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Pod:

Investigator: \_\_\_\_\_  
Signature Print Date

Pod Leader: \_\_\_\_\_  
Title/Signature Print Date

Attorney: \_\_\_\_\_  
Title/Signature Print Date